

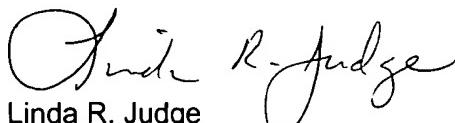
Applicants direct the Examiner to M.P.E.P. Section 803.04 (entitled Restriction - Nucleotide Sequences), which states that "Nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another. These sequences are thus deemed to normally constitute independent and distinct inventions within the meaning of 35 U.S.C. 121. Absent evidence to the contrary, each such nucleotide sequence is presumed to represent an independent and distinct invention, subject to a restriction requirement pursuant to 35 U.S.C. 121 and 37 CFR 1.141 et seq. Nevertheless, to further aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Commissioner has decided sua sponte to partially waive the requirements of 37 CFR 1.141 et seq. and permit a reasonable number of such nucleotide sequences to be claimed in a single application. (See Examination of Patent Applications Containing Nucleotide Sequences, 1192 O.G. 68 (November 19, 1996). It has been determined that normally ten sequences constitute a reasonable number for examination purposes." (emphasis added)

Given that the claims of the instant application are directed to 10 sequences, it is Applicants' position that the presently claims sequences should be considered a single invention by the PTO for purposes of examination, consistent with PTO policy, as set forth above.

Accordingly, Applicants request that the Examiner reconsider the restriction requirement in the next Office Action.

If in the opinion of the Examiner, a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (650) 324-0880, ext. 117.

Respectfully submitted,

  
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